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Washington in The Shadow of The President's Illness

Washington

The illness of the President overshadows all else here. The assurances of the physicians that he is better than ever are the bitter joke of the press corps, though little enough of their skepticism gets into print. The White House entourage is doing all it can to create the illusion that Mr. Eisenhower is active again, but the Hagerty sleight-of-hand is clumsy. The glimpse of the President being fed intravenously, with a tube through the nose for stomach exhaust, indicates the painful nature of his ordeal. The President and Mrs. Eisenhower have had a hard and lonely lot, and we would wish them the happy retirement at Gettysburg they deserve if he were not so badly needed at this critical juncture in American and world affairs.

Though Adlai Stevenson commands deserved respect and gives promise of gifts far superior to Eisenhower's, the prospect of a change in the White House at this time is discouraging. The appearance of George Meany at the FBI National Academy graduation services—the first labor chief to be so honored—and the inflammatory speech he made there may serve as a reminder of the kind of labor leadership and rightist Catholic opinion which wields influence in the Democratic party. A combination of that pressure with "20 years of treason" slurs would allow Stevenson too little leverage for peace were he in the White House. The Democratic party is also the main instrument of the aviation lobby and of the Air Force with their twin vested interests in maintaining tension and alarm. Should a Harriman or a Symington win the nomination, they would do their best to resume the cold war. The new National Academy of Sciences report on atomic radiation emphasizes the need for new attitudes; peace is the No. 1 issue for mankind. This our soldier President understands.

States Within A State

With the President ill, the situation is precarious. All he has achieved in the first beginnings of a thaw in our relations with the Soviet Union and China are endangered. The military bureaucracy, the dominant groups in the State Department, the FBI and its two Congressional sounding boards—the Senate Internal Security Committee and the House Un-American Activities Committee—are deeply opposed to any relaxation of tension. Their efforts are being intensified. The almost anarchistic headstrongness which government departments customarily display in Washington is more evident than ever. Where else would a subordinate Air Force General go off on his own as General Le May has just done in asking an additional $3,800,000,000 for the Strategic Air Command over and above its agreed $5,000,000,000 budget? Air Force Chief Twining admitted to a reporter last week that this was Le May's "own program."

In the Far East two new developments hold the seeds of crises which could serve to renew tension. The public is not being told the full story either about negotiations with Communist China or about the unilateral expulsion of the truce units in Korea. The State Department last week released a statement about the U.S. reply to a Communist proposal at Geneva for a conference about Formosa on the Foreign Ministers' level. But the text of the proposal was not given out so that it is impossible to tell just what the issue is. In Korea there is an equal lack of full explanations. The U.S. would look better in the eyes of Asia if the Swiss and Swedes had asked for discontinuance of the truce teams on which they serve. But they, though critical of the often high handed conduct of the North Koreans and the Chinese Communists, have always felt it was better for the work of the truce teams to go on. Syngman Rhee has wanted the truce teams out as a first step toward "revising" the armistice agreement altogether so that he could bring in atomic weapons. Korea spells trouble again.

Adenauer, Too, Needs Tension

Foremost among those chafing under Eisenhower policies are the Germans; Adenauer's future depends on resumption of tension. Now as always bad relations between East and West are primary aims of German policy. If a deal is to be made with the Russians, they want to make it. Dulles is their old friend but Eisenhower has never been popular with them. They saw themselves bypassed at Geneva and they are terribly alarmed by the recent suggestion from former U.S. High Commissioner John J. McCloy, an Eisenhower confidant, that West Germany renounce its claims to the Oder-Neisse territories. Such a renunciation would serve Western policy in two ways (1) by lessening the likelihood of a new Russo-German deal paid for by a new partition of Poland, and (2) ease Polish and Czech fears and thereby their dependence on the Soviet Union. On top of this, Eisenhower's friendly word about neutrals in his last press conference strengthened those Germans who want a demilitarized neutral Reich.

So we have Dulles calling neutralism "immoral" a few days after the President recognized that for some countries it might be expedient and wise. The only Eisenhower man who seems to be speaking out in the government is Nixon. His speech at Easton, Pa., on June 7 is worth study. He called for greater exchange of visits with the Soviet Union, expressed sympathy for the colonial countries, and warned of the danger that we might be isolated "if it is made to appear that our primary concern is military hardware." He even went so far as to hold up to us as an example those areas of the world in which "the intellectual is not dismissed as an egghead. The artist is not called a longhair." This sounded like a play for Adlai Stevenson. Nixon's, too, is a "new look" worth watching.

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To Show Contempt For The House Committee Is Not Crime of "Contempt"

The contempt Paul Robeson voiced last week for the House Un-American Activities Committee was richly deserved and if it is foolish enough to go ahead and prosecute him for contempt, it will merely be inviting another humiliation. The crime of contempt is failure to appear or to answer questions. Robeson did not fail to do either. To voice one's contempt for a Congressional committee is not "contempt" in this legal sense, and the only way Robeson could be punished for calling the committee "un-American"—which it certainly is—would be by summoning him before the bar of the House of Representatives. We do not think the House is silly enough to let itself in for such a spectacle.

Paul Robeson is a great artist, and a deeply sympathetic human being. His own success did not blind him to the wrongs suffered by his race. His emotionalism and political immaturity have led him into a blind pro-Sovietism but that is his affair. To deny him the right to travel, to sing and to speak as he pleases; to put him in the pillory of a Congressional committee and let lesser men bait him, is more hurtful to American prestige abroad than any intemperate statement he ever made. America should be proud that, despite all, a Robeson could be a football hero and a great artist in our country, and speak up for his less fortunate fellows. To gag and bait him is really to sabotage this country's interests abroad.

Last week's hearings were a demonstration of disrespect for law as well as political folly. Robeson, Clark Foreman, Dr. Otto Nathan and Leonard Boudin were haled before the Committee to punish them for their temerity in suing the State Department for passports and their right to travel. Chairman Walter has every right to submit a bill which would legalize all the worst practices of the passport division, including the use of anonymous informants, as he has done. But he is too able a lawyer not to be aware that it is improper to interfere with passport cases before the courts, as Robeson's and Boudin's are, or to try and "reverse" recent court decisions by demanding that Dr. Foreman and Dr. Nathan hand over to the committee the passports granted them as a result of judicial order. Here, again, the threat of contempt proceedings may prove an empty one. We believe the courts will hold that the Committee has a right to examine but not to seize passports, as a few weeks ago it seized the passports of two young women and refused to return them.

Cain's Duel With Brownell

On the next page we print an important excerpt from former Senator Harry Cain's two days of testimony last week before the Hennings committee. He was just completing his appearance as we went to press, and full coverage must wait until next week. It was an unforgettable experience to hear this tense, thin-faced man with the wispy, wavy hair; this ex-McCarthyite who has become Washington's foremost champion of the forgotten men lost and destroyed in the callous gears of the loyalty-security program. The real America we all believe in spoke through him. He had just managed to go over the heads of Attorney General Brownell and Sherman Adams; he had reached the President the day before his illness began; his story had led the White House to intervene at once in two particularly dreadful cases; and he had made the President realize what was really happening in his Administration. Now the Hennings committee had come to life again to give this crusader a forum, and in it he carried a step further his duel with the Attorney General. The most sensational item in his testimony was his statement that the key Ullmann letter in the famous Taylor loyalty case "may have been fabricated." He compared it to the infamous "bordereau" in the Dreyfus case; here Cain was striking at the very heart of Brownell's "twenty years of treason." His detailed analysis of the steady degeneration in loyalty standards under Brownell was another blow, as was his derisive description of the Attorney General's list.

The character of the questions asked these witnesses and Henry Willcox clearly invade First Amendment rights. What business is it of the committee what an American citizen says at home or abroad? The effect is to browbeat non-conformity, and in Boudin's case to put into the pillory a courageous young lawyer whose efforts have created new judicial support for the right to travel. This is to use a Congressional committee to revenge a defeat in the courts, and to serve notice on litigants that if they dare sue for their passports they may be hauled up for a smearing and forced to hand them over to the House committee.

The Supreme Court's Cole Decision and the Security Mania

The frenzied activity of the two witch hunt committees, House Un-American and Senate Internal Security, reflect their desperation. They feel that the cold war is ending, that the anti-Red hysteria has given way first to public indifference and now to public distrust of the witch hunters themselves. They fear a *detente* abroad and they are especially worried—and correspondingly furious—because of the changing attitude of the courts. Here the racial animosities of men like Eastland merge with their generally reactionary outlook in an outburst of criticism of the Supreme Court.

Last week's decision in the Cole case added to the fury of the Eastlands and Walters, and those circles in the Department of Justice and the FBI whose views they share. What the Cole case really means remains to be seen. But politically it was a block-buster. Attorney General Brownell had abolished the loyalty procedures, with their system of review boards, and persuaded the President to blanket the whole government in under a 1950 Act which gave eleven specified agencies powers of summary dismissal without a hearing to protect "national security." Cole was a food and drug inspector in the Department of Health, Education and Welfare alleged to have (in the gibberish of the witch hunt) "maintained a continued and sympathetic association with the Nature Friends of America" which is on the Attorney General's list.

The Supreme Court 5-3 upheld Cole's appeal. What must have hurt most at the Justice Department is that the judge who wrote the majority opinion was Brownell's own latest choice for the Court, John Marshall Harlan, hand-picked after a Smith Act decision on the Circuit Court which was so far right that it seemed to guarantee that he would be "reliable." The facts in the Cole case seem to have been too much for Mr. Justice Harlan's sense of fair play. He pointed out that Congress in passing the 1950 statute named 11 agencies which are really "sensitive" and argued that it could not have intended to allow similar summary firings in other agencies without a determination that the specific jobs involved were equally "sensitive." There had not been, and there could not have been, any such determination in Cole's case, since his duties were miles removed from "security."

The summary procedures of the 1950 Act were never intended to be used as a substitute for "loyalty hearings." Indeed the Act specifically provided that dismissal by one agency under these procedures "shall not affect the right . . . to seek or accept employment" in any other, non-sensitive government position. Brownell and the Eisenhower Administration seized on this Act to save themselves the trouble even of giving employes suspected of disloyalty the inadequate type of hearings provided by "loyalty" procedures. These hearings—and the faceless informers who figured in them—were attracting too much attention from the Courts, and Brownell preferred to get rid of them altogether. The Cole decision as a minimum means a little more protection, a little more justice, for the Federal employe.

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From Last Week's Testimony By The Fighting Maverick of the Eisenhower Administration

Former Senator Cain Calls Fascism Greater Danger Than Communism

As a member of the Subversive Activities Control Board, a former follower of McCarthy in the U.S. Senate and a man who probably knows more than any other official in Washington about the loyalty-security program, former Senator Harry Cain is worth listening to when he says that Fascism is a greater menace to the U.S. than Communism. Because remarkably little attention was paid in the press last week to Cain's warning on this point before the Hennings Committee on Constitutional Rights, we reprint the salient sections here. The italics are from the original.—IFS

"On occasions in the past, segments among our people and their governments have been persuaded, but only temporarily, that some of the tools of what has been called Fascism since 1922 offered solutions in periods when our nation's security was to some extent in jeopardy. Conspicuous examples took place with the Alien and Sedition Acts shortly after the first government of the United States was established; during and following the Civil War; through and after World War I; and from about the close of World War II until the present.

"I find it provocative that the prevailing era of departure from traditional concepts and procedures has already lasted longer than any of the other eras by several years. When this awareness is related to our far larger population with its growing reliance on government in one way or another, and to the troubled and uncertain condition of the world, one has reason to wonder about the direction in which the United States seems to be headed. . . .

"As a people we are strongly anti-Communistic. We are opposed to the level of mass mediocrity required by Communism's demand for total obedience and loyalty to the State. In our Republic, our government is expected to be responsible and loyal to us, the people, and to the spirit and letter of the Constitution.

"From the Top Down"

"But Fascism is also opposed to Communism though for reasons far different from our own. Should we fail to have a clear appreciation of the difference between the reasons, we can become *so anti-Communistic as to become pro-Fascist. . . .* Though Fascism tends to impose its dictatorship from the top down while Communism moves from the bottom up, each employs the same weapons for its progress and success.

"Chief among these are fear, conformity, the closed mind, superstition, using each other as the primary excuse for additional grants of executive power, discrediting the legislative and judicial process in favor of administrative procedures and so-called people's courts, and *always justifying every totalitarian step in the name and need for total security. . . .*

"We are told by law, Executive Order and Congressional interpretation that a conspiracy called international Communism, which aims to overthrow our government and destroy our free institutions by whatever means it may find available, constitutes a clear and present danger to our society.

"So what! We have always been threatened by outside forces of one kind or another. . . . It makes sense that we recognize a danger so that we may deal with it. If the fashion in which we deal with the danger is shortsighted, stupid, dictatorial or foolish, let us blame ourselves rather than the danger for our mistakes, unawareness and inaptitude.

"I am probably a fairly well-informed and patriotic citizen, or at least I think I am. This knowledge and my devotion to liberty leads me to believe that our nation has less to worry about from the *clear and present danger of Communism* than from the *secret and more pernicious danger of Fascism.*

Harder to Identify

"Will you agree that it is easier, though difficult, to identify a Communist than a Fascist? The Communist can be tied to an international conspiracy; he sometimes carries a card, or belongs to a cell in which the government has an undercover agent, or subscribes to the *Daily Worker* or the *New Masses,* or was against the war in Korea and wants to outlaw the atom bomb, or advocates admission of Red China to the United Nations. Some of these standards cover those who are as loyal as you or I, but, anyway, they are leads.

"It is much harder to find a Fascist. In the first place, no one is looking for him. The Attorney General, for example, prosecutes cases against alleged Communist front organizations but he has no legal authority for proceeding against alleged Fascist organizations. It is seldom remembered that six or seven hundred Fascist organizations, with American citizens as members, were operating here during the 1930's.

"Many who act like Fascists do so only because of their total desire to impose injury on the Communist course. To them the end justifies any means. These are the people who have forgotten why and how our Bill of Rights was forged from valleys of blood, vast suffering and sacrifices long endured. This Fascist-minded person is often best known by the contradiction between what he says and what he does. *He has a unique facility for applauding freedom publicly while abusing it privately.* This fellow carries no card and belongs to no cell but when taken in the aggregate, he has done much more to harm liberty's cause here at home during our postwar decade than has the Communist. . . .

"Whenever we employ a Fascist tool in our struggle against Communism, we have impregnated a cancer cell in the body of our society. Let that cell remain undetected or permit it to spread after detection and the body it occupies, our Republic, can only look forward to an agonizing and certain death."

Praise from The London New Statesman for The Weekly

The London New Statesman and Nation's famous "Critic," its gifted editor, Kingsley Martin, in his "London Diary" for June 2 summarized for its readers Stone's recent series from Moscow and Warsaw. He introduced it by saying—pardon our blushes—"I've always respected I. F. Stone as one of the most honest, courageous and often attacked of American liberals. I respect him all the more for his remarkable report on his recent trip to Moscow, which has just appeared in his weekly newsletter." This is the prize item in a collection of bouquets and brickbats from which we've been hoping to print samples as soon as not quite so much is happening. We just had to break into print with this one, since the NS&N is the publication we would most like to be in our next incarnation. In the meantime you can still start a gift subscription for a friend with Stone's series from abroad. It'll help our circulation and his blood pressure (unless too high already).

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Stalin's Frameups Cited to Show The Danger of Permitting Faceless Informers

Krushchev Makes His Debut in American Constitutional Law

Krushchev's attack on Stalin made its debut in U.S. constitutional law last week. Its description of how "honest Communists" were framed under Stalin was quoted by Mr. Justice Black in *Jay* v. *Boyd*. Black protested that "the use of anonymous information . . . against those who are obnoxious to the rulers" has always been used to maintain totalitarian power, and coupled Krushchev with a famous letter from the Emperor Trajan instructing Pliny the Younger not to use anonymous information against persons suspected of being Christians because this would be "a very dangerous precedent . . . quite foreign to the spirit of our age."

It may have been foreign to imperial Rome but has grown to be taken for granted in latter day Washington. Anonymous accusation is an accepted feature of loyalty, security, passport, and draft board hearings. The Supreme Court has already allowed anonymous information in three types of cases: conscientous objector hearings, exclusion of aliens and determination of sentence by a judge after convictions of crime. *Jay* v. *Boyd* last week added a new category: hearings for suspension of deportation.

Familiar Cold War Formula

The law entitles a deportable alien to suspension of deportation "in the discretion" of the Attorney General. But the alien to qualify must "prove" that during the preceding ten years he has been a person of good moral character. The Attorney General set up hearing procedures. But these permit the decision to be based on "confidential information . . . if . . . the disclosure of such information would be prejudicial to the public interest, safety or security." This is the formula grown familiar in American cold war law.

The man before the court was 65. Cecil Reginald Jay came here from England in 1914, and had been here ever since except for service in the Canadian Army during World War I. In 1952 he was ordered deported because he had been a member of the Communist Party from 1935 to 1940, although Congress did not make such membership grounds for deportation until 1950. Jay applied for suspension as a hardship case, and the hearing officer found that deportation would separate him from relatives and friends, leaving him uprooted and without support.

Jay established his good moral character "to the complete satisfaction of the hearing officer," Black pointed out. "But the hearing officer 'after considering confidential information' refused to suspend deportation." Jay's counsel claimed that this was nothing more than the appearance of his name on a list circulated by the American Committee for the Protection of the Foreign Born which has been held subversive by the Attorney General. This the government denied.

"He Was Forthright in His Opinions"

Some light may be cast into the fog from which Jay tried to extricate himself. There is a revealing sentence in an affidavit from the Seattle Housing Authority which employed him. This called him "conscientous and faithful." "His honesty was unquestioned." "Not one complaint had ever been filed against him." But "he was forthright in his opinions." Who knows what some informer overheard or twisted?

This painful story, with its tragedy and shame, split the Court 5-4. The majority through Mr. Justice Reed held that suspension of deportation was a matter of grace and therefore the Attorney General could handle it as he pleased. Mr. Justice Frankfurter held that while this might unfortunately be true, the Attorney General could not exercise his discretion through subordinates by setting up regulations for a hearing and then depriving that hearing of real meaning by permitting the decision to be made on undisclosed charges.

Three other members of the Court went further in separate dissents. The Chief Justice denied that the Attorney General had "unfettered discretion." Mr. Justice Douglas held that the statute implicitly required a hearing and protested "A hearing is not a hearing in the American sense if faceless informers or confidential information may be used to deprive a man of his liberty." Mr. Justice Black argued that irrespective of the statute "prosecution of any sort on anonymous information" is unconstitutional.

Often Anonymous Rubbish

Scornfully Mr. Justice Black asked, "What is meant by 'confidential information'? According to officers of the Immigration Service it may be 'merely information we received off the street'; or 'what might be termed as hearsay evidence, which could not be gotten into the record . . .'; or 'such things, perhaps, as income tax returns, or maybe a witness who didn't want to be disclosed. . . .' No nation can remain true to the ideal of liberty under law and at the same time permit people to have their homes destroyed and their lives blasted by the slurs of unseen and unsworn informers."

The vigor of the dissents, the close vote, the changing climate and the narrowness of the majority opinion offer some hope for the future. It is not likely that five votes could be marshalled on this court for the use of anonymous information in a wider context than the Attorney General's discretion to suspend deportation. Deportation itself must be on grounds proven in open court.

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